

## Farm Service Agency, USDA

## § 762.110

former PLP lenders) in submitting loan guarantee requests. They may reapply for CLP or PLP status when the problem causing them to lose their status has been resolved.

[64 FR 7378, Feb. 12, 1999; 64 FR 38298, July 16, 1999, as amended at 70 FR 56107, Sept. 26, 2005; 71 FR 43957, Aug. 3, 2006; 75 FR 54013, Sept. 3, 2010]

### §§ 762.107–762.109 [Reserved]

#### § 762.110 Loan application.

(a) *Loans for \$125,000 or less.* All lenders except PLP lenders will submit the following items:

(1) A complete application for loans of \$125,000 or less must, at least, consist of:

- (i) The application form;
- (ii) Loan narrative;
- (iii) Balance sheet;
- (iv) Cash flow budget, unless waived when conditions in paragraph (d) of this section are met;
- (v) Credit report;
- (vi) A plan for servicing the loan;
- (vii) For CL guarantees, a copy of the conservation plan;
- (viii) To request consideration for priority funding for CL guarantees, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.

(2) In addition to the minimum requirements, the lender will perform at least the same level of evaluation and documentation for a guaranteed loan that the lender typically performs for non-guaranteed loans of a similar type and amount.

(3) The \$125,000 threshold includes any single loan, or package of loans submitted for consideration at any one time. A lender must not split a loan into two or more parts to meet the threshold thereby avoiding additional documentation.

(4) The Agency may require lenders with a lender loss rate in excess of the rate for CLP lenders to assemble additional documentation from paragraph (b) of this section.

(b) *Loans over \$125,000.* A complete application for loans over \$125,000 will require items specified in paragraph (a) of this section, plus the following items

unless waived when conditions in paragraph (d) of this section are met:

- (1) Verification of income;
- (2) Verification of debts over \$1,000;
- (3) Three years financial history;
- (4) Three years of production history (for standard eligible lenders only);
- (5) Proposed loan agreements; and,
- (6) If construction or development is planned, a copy of the plans, specifications, and development schedule.

(c) *Applications from PLP lenders.* Notwithstanding paragraphs (a) and (b) of this section, a complete application for PLP lenders will consist of at least:

- (1) An application form;
- (2) A loan narrative;
- (3) For CL guarantees, a copy of the conservation plan;
- (4) To request consideration for priority funding for CL guarantees, plans to transition to organic or sustainable agriculture when the funds requested will be used to facilitate the transition.
- (5) Any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement.

(d) *Streamlined CL guarantee.* For CL guarantee applicants meeting all the following criteria, the cash flow budget requirement in this section will be waived:

- (1) Be current on all payments to all creditors including the Agency (if currently an Agency borrower),
  - (2) Debt to asset ratio is 40 percent or less,
  - (3) Balance sheet indicates a net worth of 3 times the requested loan amount or greater, and
  - (4) FICO credit score is at least 700.
- For entity applicants, the FICO credit score of the majority of the individual members of the entity must be at least 700.

(e) *Submitting applications.* (1) All lenders must compile and maintain in their files a complete application for each guaranteed loan. See paragraphs (a), (b), and (c) of this section.

(2) The Agency will notify CLP lenders which items to submit to the Agency.

(3) PLP lenders will submit applications in accordance with their agreement with the Agency for PLP status.

(4) CLP and PLP lenders must certify that the required items, not submitted, are in their files.

(5) The Agency may request additional information from any lender or review the lender's loan file as needed to make eligibility and approval decisions.

(f) *Incomplete applications.* If the lender does not provide the information needed to complete its application by the deadline established in an Agency request for the information, the application will be considered withdrawn by the lender.

(g) *Conflict of interest.* (1) When a lender submits the application for a guaranteed loan, the lender will inform the Agency in writing of any relationship which may cause an actual or potential conflict of interest.

(2) Relationships include:

(i) The lender or its officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners having a financial interest (other than lending relationships in the normal course of business) in the applicant or borrower.

(ii) The applicant or borrower, a relative of the applicant or borrower, anyone residing in the household of the applicant or borrower, any officer, director, stockholder or other owner of the applicant or borrower holds any stock or other evidence of ownership in the lender.

(iii) The applicant or borrower, a relative of the applicant or borrower, or anyone residing in the household of the applicant or borrower is an Agency employee.

(iv) The officers, directors, principal stockholders (except stockholders in a Farm Credit System institution that have stock requirements to obtain a loan), or other principal owners of the lender have substantial business dealings (other than in the normal course of business) with the applicant or borrower.

(v) The lender or its officers, directors, principal stockholders, or other principal owners have substantial business dealings with an Agency employee.

(3) The lender must furnish additional information to the Agency upon request.

(4) The Agency will not approve the application until the lender develops acceptable safeguards to control any actual or potential conflicts of interest.

(h) *Market placement program.* Except for CL guarantees, when the Agency determines that a direct applicant or borrower may qualify for guaranteed credit, the Agency may submit the applicant or borrower's financial information to one or more guaranteed lenders. If a lender indicates interest in providing financing to the applicant or borrower through the guaranteed loan program, the Agency will assist in completing the application for a guarantee.

[64 FR 7378, Feb. 12, 1999, as amended at 68 FR 7695, Feb. 18, 2003; 72 FR 63297, Nov. 8, 2007; 75 FR 54013, Sept. 3, 2010]

§§ 762.111–762.119 [Reserved]

§ 762.120 Applicant eligibility.

Unless otherwise provided, applicants must meet all of the following requirements to be eligible for a guaranteed OL, FO, or CL.

(a) *Agency loss.* (1) Except as provided in paragraph (a)(2) of this section, the applicant, and anyone who will execute the promissory note, has not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Act by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the Act; discharge in bankruptcy; or through payment of a guaranteed loss claim on:

(i) More than three occasions on or prior to April 4, 1996; or

(ii) Any occasion after April 4, 1996.

(2) The applicant may receive a guaranteed OL to pay annual farm and ranch operating and family living expenses, provided the applicant meets all other requirements for the loan, if the applicant and anyone who will execute the promissory note:

(i) Received a write-down under section 353 of the Act;

(ii) Is current on payments under a confirmed reorganization plan under